

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

IVAN ANTONYUK; COREY JOHNSON; ALFRED
TERRILLE; JOSEPH MANN; LESLIE LEMAN; and
LAWRENCE SLOANE,

Plaintiffs,

v.

KATHLEEN HOCHUL, in her Official Capacity as
Governor of the State of New York; KEVIN P. BRUEN, in
his Official Capacity as Superintendent of the New York
State Police; JUDGE MATTHEW J. DORAN, in His
Official Capacity as Licensing-Official of Onondaga
County; WILLIAM FITZPATRICK, in His Official
Capacity as the Onondaga County District Attorney;
EUGENE CONWAY, in his Official Capacity as the
Sheriff of Onondaga County; JOSEPH CECILE, in his
Official Capacity as the Chief of Police of Syracuse; P.
DAVID SOARES, in his Official Capacity as the District
Attorney of Albany County; GREGORY OAKES, in his
Official Capacity as the District Attorney of Oswego
County; DON HILTON, in his Official Capacity as the
Sheriff of Oswego County; and JOSEPH STANZIONE, in
his Official Capacity as the District Attorney of Greene
County,

Defendants.

**ANSWER WITH
AFFIRMATIVE
DEFENSES**

1:22-cv-0986
(GTS/CFH)

Defendant, P. David Soares, in his Official Capacity as the District Attorney of the County
of Albany, New York, (hereinafter “Answering Defendant”), by and through his attorneys, the
Albany County Attorney Eugenia K. Condon (Joseph A. Coticchio, Esq., *of Counsel*), as and for
an Answer to Plaintiffs’ Complaint states as follows:

AS TO COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

1. The allegations in paragraph 1 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 1 of the Complaint.

AS TO THE PARTIES

2. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 2 of the Complaint.

3. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 3 of the Complaint.

4. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 4 of the Complaint.

5. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 5 of the Complaint.

6. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 6 of the Complaint.

7. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 7 of the Complaint.

8. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 8 of the Complaint.

9. The allegations in paragraph 9 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 9 of the Complaint.

10. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 10 of the Complaint.

11. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 11 of the Complaint.

12. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 12 of the Complaint.

13. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 13 of the Complaint.

14. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 14 of the Complaint.

15. Admit the allegations in paragraph 15 to the extent that Answering Defendant is the Albany County District Attorney and acknowledges what purportedly appears to be quoted language of Section 700 of the County Law and further admits that Answering Defendant is sued in his official capacity.

16. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 16 of the Complaint.

17. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 17 of the Complaint.

18. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 18 of the Complaint.

AS TO JURISDICTION AND VENUE

19. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 19 of the Complaint.

20. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 20 of the Complaint.

21. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 21 of the Complaint.

22. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 22 of the Complaint.

23. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 23 of the Complaint.

24. The allegations in paragraph 24 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 24 of the Complaint.

AS TO STATEMENT OF FACTS

25. Admit what purportedly appears to be quoted language from the Second Amendment to the United State Constitution; denies having knowledge or information to form a belief as to the truth or accuracy of every remaining allegation contained in paragraph 25 of the Complaint.

26. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 26 of the Complaint.

27. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 27 of the Complaint.

28. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 28 of the Complaint.

29. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 29 of the Complaint.

30. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 30 of the Complaint.

31. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 31 of the Complaint.

32. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 32 of the Complaint.

33. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 33 of the Complaint.

34. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 34 of the Complaint.

35. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 35 of the Complaint.

36. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 36 of the Complaint.

37. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 37 of the Complaint.

38. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 38 of the Complaint.

39. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 39 of the Complaint.

40. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 40 of the Complaint.

41. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 41 of the Complaint.

42. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 42 of the Complaint.

43. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 43 of the Complaint.

44. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 44 of the Complaint.

45. The allegations in paragraph 45 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 45 of the Complaint.

46. The allegations in paragraph 46 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 46 of the Complaint.

47. The allegations in paragraph 47 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 47 of the Complaint.

48. Admit that there are statutory requirements in order to purchase and possess a handgun in the State of New York; denies having knowledge or information to form a belief as to the truth or accuracy of every remaining allegation contained in paragraph 48 of the Complaint.

49. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 49 of the Complaint.

50. Admit that the New York Safe Act was enacted in 2013; denies having knowledge or information to form a belief as to the truth or accuracy of every remaining allegation contained in paragraph 50 of the Complaint.

51. Admit that certain magazines are prohibited under the New York Penal Law; denies having knowledge or information to form a belief as to the truth or accuracy of every remaining allegation contained in paragraph 51 of the Complaint.

52. Admit that the State of New York requires a background check for firearm transfers; denies having knowledge or information to form a belief as to the truth or accuracy of every remaining allegation contained in paragraph 52 of the Complaint.

53. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 53 of the Complaint.

54. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 54 of the Complaint.

55. The allegations in paragraph 55 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 55 of the Complaint.

56. The allegations in paragraph 56 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 56 of the Complaint.

57. The allegations in paragraph 57 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 57 of the Complaint.

58. The allegations in paragraph 58 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 58 of the Complaint.

59. The allegations in paragraph 59 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 59 of the Complaint.

60. The allegations in paragraph 60 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 60 of the Complaint.

61. The allegations in paragraph 61 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 61 of the Complaint.

62. The allegations in paragraph 62 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 62 of the Complaint.

63. The allegations in paragraph 63 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 63 of the Complaint.

64. The allegations in paragraph 64 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 64 of the Complaint.

65. The allegations in paragraph 65 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 65 of the Complaint.

66. Admit that Exhibit I is a document which purportedly claims to be a copy of text from Concealed Carry Improvement Act; denies each and every remaining allegation contained in paragraph 66.

67. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 67 of the Complaint.

68. The allegations in paragraph 68 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 68 of the Complaint.

69. The allegations in paragraph 69 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 69 of the Complaint.

70. The allegations in paragraph 70 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 70 of the Complaint.

71. The allegations in paragraph 71 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 71 of the Complaint.

72. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 72 of the Complaint.

73. The allegations in paragraph 73 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 73 of the Complaint.

74. The allegations in paragraph 74 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 74 of the Complaint.

75. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 75 of the Complaint.

76. The allegations in paragraph 76 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 76 of the Complaint.

77. The allegations in paragraph 77 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 77 of the Complaint.

78. The allegations in paragraph 78 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 78 of the Complaint.

79. The allegations in paragraph 79 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 79 of the Complaint.

80. The allegations in paragraph 80 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 80 of the Complaint.

81. The allegations in paragraph 81 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 81 of the Complaint.

82. The allegations in paragraph 82 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 82 of the Complaint.

83. The allegations in paragraph 83 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 83 of the Complaint.

84. Admit that paragraph 84 purportedly contains text from Section 265.01-e of the New York State Penal Law; denies each and every remaining allegation contained in paragraph 84.

85. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 85 of the Complaint.

86. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 86 of the Complaint.

87. The allegations in paragraph 87 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 87 of the Complaint.

88. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 88 of the Complaint.

89. The allegations in paragraph 89 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 89 of the Complaint.

90. The allegations in paragraph 90 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 90 of the Complaint.

91. The allegations in paragraph 91 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 91 of the Complaint.

92. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 92 of the Complaint.

93. The allegations in paragraph 93 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 93 of the Complaint.

94. The allegations in paragraph 94 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 94 of the Complaint.

95. The allegations in paragraph 95 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 95 of the Complaint.

96. The allegations in paragraph 96 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 96 of the Complaint.

97. The allegations in paragraph 97 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 97 of the Complaint.

98. The allegations in paragraph 98 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 98 of the Complaint.

99. The allegations in paragraph 99 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 99 of the Complaint.

100. The allegations in paragraph 100 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 100 of the Complaint.

101. The allegations in paragraph 101 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 101 of the Complaint.

102. The allegations in paragraph 102 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 102 of the Complaint.

103. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 103 of the Complaint.

104. The allegations in paragraph 104 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 104 of the Complaint.

105. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 105 of the Complaint.

106. The allegations in paragraph 106 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 106 of the Complaint.

107. The allegations in paragraph 107 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 107 of the Complaint.

108. The allegations in paragraph 108 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 108 of the Complaint.

109. The allegations in paragraph 109 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 109 of the Complaint.

110. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 110 of the Complaint.

111. The allegations in paragraph 111 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 111 of the Complaint.

112. The allegations in paragraph 112 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 112 of the Complaint.

113. The allegations in paragraph 113 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 113 of the Complaint.

114. The allegations in paragraph 114 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 114 of the Complaint.

115. The allegations in paragraph 115 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 115 of the Complaint.

116. The allegations in paragraph 116 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 116 of the Complaint.

117. The allegations in paragraph 117 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 117 of the Complaint.

118. The allegations in paragraph 118 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 118 of the Complaint.

119. The allegations in paragraph 119 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 119 of the Complaint.

120. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 120 of the Complaint.

121. The allegations in paragraph 121 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 121 of the Complaint.

122. The allegations in paragraph 122 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 122 of the Complaint.

123. The allegations in paragraph 123 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 123 of the Complaint.

124. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 124 of the Complaint.

125. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 125 of the Complaint.

126. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 126 of the Complaint.

127. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 127 of the Complaint.

128. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 128 of the Complaint.

129. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 129 of the Complaint.

130. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 130 of the Complaint.

131. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 131 of the Complaint.

132. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 132 of the Complaint.

133. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 133 of the Complaint.

134. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 134 of the Complaint.

135. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 135 of the Complaint.

136. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 136 of the Complaint.

137. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 137 of the Complaint.

138. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 138 of the Complaint.

139. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 139 of the Complaint.

140. The allegations in paragraph 140 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 140 of the Complaint.

141. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 141 of the Complaint.

142. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 142 of the Complaint.

143. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 143 of the Complaint.

144. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 144 of the Complaint.

145. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 145 of the Complaint.

146. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 146 of the Complaint.

147. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 147 of the Complaint.

148. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 148 of the Complaint.

149. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 149 of the Complaint.

150. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 150 of the Complaint.

151. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 151 of the Complaint.

152. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 152 of the Complaint.

153. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 153 of the Complaint.

154. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 154 of the Complaint.

155. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 155 of the Complaint.

156. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 156 of the Complaint.

157. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 157 of the Complaint.

158. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 158 of the Complaint.

159. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 159 of the Complaint.

160. The allegations in paragraph 160 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 160 of the Complaint.

161. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 161 of the Complaint.

162. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 162 of the Complaint.

163. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 163 of the Complaint.

164. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 164 of the Complaint.

165. The allegations in paragraph 165 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 165 of the Complaint.

166. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 166 of the Complaint.

167. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 167 of the Complaint.

168. The allegations in paragraph 168 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 168 of the Complaint.

169. The allegations in paragraph 169 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 169 of the Complaint.

170. The allegations in paragraph 170 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 170 of the Complaint.

171. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 171 of the Complaint.

172. The allegations in paragraph 172 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 172 of the Complaint.

173. The allegations in paragraph 173 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 173 of the Complaint.

174. The allegations in paragraph 174 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 174 of the Complaint.

175. The allegations in paragraph 175 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 175 of the Complaint.

176. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 176 of the Complaint.

177. The allegations in paragraph 177 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 177 of the Complaint.

178. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 178 of the Complaint.

179. The allegations in paragraph 179 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 179 of the Complaint.

180. The allegations in paragraph 180 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 180 of the Complaint.

181. The allegations in paragraph 181 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 181 of the Complaint.

182. The allegations in paragraph 182 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 182 of the Complaint.

183. The allegations in paragraph 183 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 183 of the Complaint.

184. The allegations in paragraph 184 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 184 of the Complaint.

185. The allegations in paragraph 185 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 185 of the Complaint.

186. The allegations in paragraph 186 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 186 of the Complaint.

187. The allegations in paragraph 187 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 187 of the Complaint.

188. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 188 of the Complaint.

189. The allegations in paragraph 189 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 189 of the Complaint.

190. The allegations in paragraph 190 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 190 of the Complaint.

191. The allegations in paragraph 191 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 191 of the Complaint.

192. The allegations in paragraph 192 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 192 of the Complaint.

193. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 193 of the Complaint.

194. The allegations in paragraph 194 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 194 of the Complaint.

195. The allegations in paragraph 195 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 195 of the Complaint.

196. The allegations in paragraph 196 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 196 of the Complaint.

197. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 197 of the Complaint.

198. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 198 of the Complaint.

199. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 199 of the Complaint.

200. The allegations in paragraph 200 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 200 of the Complaint.

201. The allegations in paragraph 201 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 201 of the Complaint.

202. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 202 of the Complaint.

203. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 203 of the Complaint.

204. The allegations in paragraph 204 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 204 of the Complaint.

205. The allegations in paragraph 205 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 205 of the Complaint.

206. The allegations in paragraph 206 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 206 of the Complaint.

207. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 207 of the Complaint.

208. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 208 of the Complaint.

209. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 209 of the Complaint.

210. The allegations in paragraph 210 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 210 of the Complaint.

211. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 211 of the Complaint.

212. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 212 of the Complaint.

213. The allegations in paragraph 213 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 213 of the Complaint.

214. The allegations in paragraph 214 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 214 of the Complaint.

215. The allegations in paragraph 215 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 215 of the Complaint.

216. The allegations in paragraph 216 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 216 of the Complaint.

217. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 217 of the Complaint.

218. The allegations in paragraph 218 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 218 of the Complaint.

219. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 219 of the Complaint.

220. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 220 of the Complaint.

221. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 221 of the Complaint.

222. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 222 of the Complaint.

223. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 223 of the Complaint.

224. The allegations in paragraph 224 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 224 of the Complaint.

225. The allegations in paragraph 225 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 225 of the Complaint.

226. The allegations in paragraph 226 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 226 of the Complaint.

227. The allegations in paragraph 227 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 227 of the Complaint.

228. The allegations in paragraph 228 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 228 of the Complaint.

229. The allegations in paragraph 229 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 229 of the Complaint.

230. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 230 of the Complaint.

231. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 231 of the Complaint.

232. The allegations in paragraph 232 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 232 of the Complaint.

AS TO COUNT I - U.S. CONST., AMEND. II,
FOR VIOLATIONS OF 42 U.S.C. § 1983 AGAINST DEFENDANTS

233. Answering Defendant repeats and realleges its responses to paragraphs 1 through 232 of the Complaint as if set forth fully herein.

234. The allegations in paragraph 234 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 234 of the Complaint.

235. Denies knowledge or information sufficient to form a belief as to the truth or accuracy of each and every allegation contained in paragraph 235 of the Complaint.

236. The allegations in paragraph 236 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies every allegation contained in paragraph 236 of the Complaint.

237. The allegations in paragraph 237 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 237 of the Complaint.

238. The allegations in paragraph 238 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 238 of the Complaint.

239. The allegations in paragraph 239 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies every allegation contained in paragraph 239 of the Complaint.

240. The allegations in paragraph 240 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 240 of the Complaint.

241. The allegations in paragraph 241 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 241 of the Complaint.

242. The allegations in paragraph 242 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 242 of the Complaint.

243. The allegations in paragraph 243 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 243 of the Complaint.

244. The allegations in paragraph 244 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 244 of the Complaint.

245. The allegations in paragraph 245 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 245 of the Complaint.

**AS TO COUNT II - U.S. CONST., AMEND. I,
FOR VIOLATIONS OF 42 U.S.C. § 1983 AGAINST DEFENDANTS**

246. Answering Defendant repeats and realleges its responses to paragraphs 1 through 245 of the Complaint as if set forth fully herein.

247. The allegations in paragraph 247 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 247 of the Complaint.

248. The allegations in paragraph 248 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 248 of the Complaint.

249. The allegations in paragraph 249 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 249 of the Complaint.

250. The allegations in paragraph 250 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 250 of the Complaint.

251. The allegations in paragraph 251 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 251 of the Complaint.

252. The allegations in paragraph 252 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 252 of the Complaint.

253. The allegations in paragraph 253 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 253 of the Complaint.

254. The allegations in paragraph 254 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 254 of the Complaint.

255. The allegations in paragraph 255 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 255 of the Complaint.

**AS TO COUNT III - U.S. CONST., AMEND. V,
FOR VIOLATIONS OF 42 U.S.C. § 1983 AGAINST DEFENDANTS**

256. The allegations in paragraph 256 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 256 of the Complaint.

257. The allegations in paragraph 257 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 257 of the Complaint.

258. The allegations in paragraph 258 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 258 of the Complaint.

259. The allegations in paragraph 259 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 259 of the Complaint.

260. The allegations in paragraph 260 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 260 of the Complaint.

261. The allegations in paragraph 261 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 261 of the Complaint.

262. The allegations in paragraph 262 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 262 of the Complaint.

263. The allegations in paragraph 263 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 263 of the Complaint.

264. The allegations in paragraph 264 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 264 of the Complaint.

265. The allegations in paragraph 265 of the Complaint contain conclusions of law, and therefore no response is required; to the extent the Court requires a response, Answering Defendant denies each and every allegation contained in paragraph 265 of the Complaint.

AFFIRMATIVE DEFENSES

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

266. The actions set forth in plaintiffs' Complaint are barred by the applicable statute of limitations.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

267. The plaintiffs have failed to obtain personal jurisdiction over the Answering Defendant.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

268. As of the date of filing of the plaintiffs' Complaint the constitutional violations therein are not ripe for adjudication by a court of competent jurisdiction.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

269. That plaintiffs have failed to state a cause of action or claim against the Answering Defendant upon which relief can be granted.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

270. Plaintiffs have failed to join a necessary party under Rule 19 of the Federal Rules of Civil Procedure.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

271. Plaintiffs did not suffer a concrete injury and lack standing to maintain and commence the instant action.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

272. Plaintiffs suffered no actual injury and rely upon hypothetical and theoretical violations of New York State Law and of the United States Constitution.

AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE

273. That Answering Defendant exercises prosecutorial discretion for all alleged violations of the New York State Penal Law. Any prospective or hypothetical violations thereof are subject to the inherent prosecutorial discretion of the District Attorney.

AS AND FOR A NINTH AFFIRMATIVE DEFENSE

274. That at all times herein mentioned, the Answering Defendant was acting in his official, public capacity, in a proper public forum and his actions, activities and spoken words were unconditionally and unqualifiedly privileged.

AS AND FOR A TENTH AFFIRMATIVE DEFENSE

275. That any and all acts of the Answering Defendant, or servants and employees of the Answering Defendant were performed in good faith and without malice.

AS AND FOR AN ELEVENTH AFFIRMATIVE DEFENSE

276. That based upon the aforesaid, the Answering Defendant and his agents, officers and employees acted in accordance with lawful procedure and were justified in all of their actions at the aforesaid time and place.

AS AND FOR A TWELFTH AFFIRMATIVE DEFENSE

277. The Answering Defendant's liability to the Plaintiffs, if any, is limited pursuant to Article 16 of the Civil Practice Law and Rules.

AS AND FOR A THIRTEENTH AFFIRMATIVE DEFENSE

278. That the Answering Defendant is not the licensing officer pursuant to Article 400 of the New York State Penal Law and is not responsible for the issuance of or denial of any firearm permit thereunder.

AS AND FOR A FOURTEENTH AFFIRMATIVE DEFENSE

279. That there was no malice, intent or design on the part of the Answering Defendant to deprive the Plaintiffs of or violate their Constitutional Rights.

AS AND FOR A FIFTEENTH AFFIRMATIVE DEFENSE

280. That the occurrence and damages resulting therefrom alleged in the Complaint were the result of an emergency situation over which the Answering Defendant had no control.

AS AND FOR A SIXTEENTH AFFIRMATIVE DEFENSE

281. That any actions on the part of the Answering Defendant and his agents, officers and employees were justified.

AS AND FOR A SEVENTEENTH AFFIRMATIVE DEFENSE

282. That it was not clear at the time of the official acts herein that an interest asserted by Plaintiffs was protected by a Federal Statute of the Constitution of the United States.

AS AND FOR AN EIGHTEENTH AFFIRMATIVE DEFENSE

283. That the Answering Defendant had no policy or custom to deprive citizens of their Constitutional Rights.

AS AND FOR A NINETEENTH AFFIRMATIVE DEFENSE

284. That the Answering Defendant herein is entitled to the qualified immunity defense.

AS AND FOR A TWENTIETH AFFIRMATIVE DEFENSE

285. That it was objectively reasonable in light of the absence of clearly established law for the Answering Defendant to believe that his acts did not violate Plaintiffs' Constitutional Rights.

AS AND FOR A TWENTY-FIRST AFFIRMATIVE DEFENSE

286. Plaintiffs' claims are barred by the doctrines of collateral estoppel and res judicata.

AS AND FOR A TWENTY-SECOND AFFIRMATIVE DEFENSE

287. Plaintiffs fail to sufficiently allege a violation of an enumerated constitutional or statutory right.

AS AND FOR A TWENTY-THIRD AFFIRMATIVE DEFENSE

288. That this Court has no jurisdiction over the subject matter of the Plaintiffs' causes of action.

AS AND FOR A TWENTY-FOURTH AFFIRMATIVE DEFENSE

289. Any claim for damages and or violations arising out of the Answering Defendant's acts are barred by reason of prosecutorial immunity.

AS AND FOR A TWENTY-FIFTH AFFIRMATIVE DEFENSE

290. Answering Defendant is not in the process of, nor has he received any Complaint to investigate any of the acts or planned acts alleged in the Complaint by the Plaintiffs for violations of the Concealed Carry Improvement Act, nor has Answering Defendant threatened or stated that he plans to enforced the Concealed Carry Improvement act against one or more of the Plaintiffs to the instant action, nor has Answering Defendant enforced or threatened to enforce the Concealed Carry improvement act against any other person.

AS AND FOR A TWENTY-SIXTH AFFIRMATIVE DEFENSE

291. Plaintiffs' causes of action fail as it is clear under relevant New York State law that the District Attorney cannot not be compelled or mandated to enforce and/or prosecute violations of the New York State Penal Law.

AS AND FOR A TWENTY-SEVENTH AFFIRMATIVE DEFENSE

292. Plaintiffs fail to establish that the free speech rights which they seeks to vindicate occurred in a public or protected forum as recognized by the First Amendment to the United States Constitution.

AS AND FOR A TWENTY-EIGHTH AFFIRMATIVE DEFENSE

293. That the Plaintiffs do not fall within the category of persons protected by either the First, Second, Fifth and and/or Fourteenth Amendments to the United States Constitution.

AS AND FOR A TWENTY-NINTH AFFIRMATIVE DEFENSE

294. Plaintiffs have failed to mitigate any of their alleged damages, and to the extent of such failure to mitigate, any damages awarded to Plaintiffs should be reduced accordingly.

WHEREFORE, Answering Defendant demands judgment dismissing Plaintiffs' Complaint in its entirety as against them, together with the costs and disbursements of this action, and for such other and further relief as the Court deems just and proper.

Dated: October 13, 2022

EUGENIA K. CONDON, ESQ.
ALBANY COUNTY ATTORNEY

/s/ Joseph A. Coticchio
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